



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 6, 1998

Ms. Linda Cloud  
Executive Director  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630

OR98-0628

Dear Ms. Cloud:

You ask that we clarify Open Records Letter No. 98-0234 (1998). Your request was assigned ID# 114140.

Open Records Letter No. 98-0234 (1998) determined that the Texas Lottery Commission (the "Commission") must release a background investigation report to the subject of the report. The decision found that certain exceptions to disclosure, specifically sections 552.101, 552.102, 552.108 and 552.111 of the Government Code, cannot overcome the subject's right to the information under section 466.023 of the Government Code. You do not dispute now that the release of the investigative report is governed by section 466.023 or that section 466.023 provides the subject of the request a right to the information. You state that Open Records Letter No. 98-0234 (1998) "is not clear as to the application of [s]ection 552.101 or 552.108 regarding the rights of the third parties and consideration given to those third party rights." The third parties whose rights you wish us to consider you describe as "witnesses, informants and other persons interviewed" during the background investigation of the requestor.

Where access to a specific subset of information held by a governmental body is governed by a statute other than the Open Records Act (the "act"), exceptions to disclosure under the act are not relevant to the question of access to the information. *See* Open Records Decision Nos. 598 (1991), 451 (1986). Thus, to clarify Open Records Letter No. 98-0234 (1998), the Commission may not withhold from disclosure any information in the report based on any of the act's exceptions to disclosure.

Here, we look to section 466.023 to determine the Commission's duty to release information. That statute contains no proviso that the subject's right to information about himself does not include information about other persons, such as witnesses and informants.<sup>1</sup> We understand your concerns about the release of the identities of the third parties. However, the fact that a good reason may exist to withhold the information does not justify a construction of section 466.022 that is inconsistent with its express terms. *See* Open Records Decision No. 653 (1997) at 3 (construing Insurance Code articles 1.24D and 17.22).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref.: ID# 114140

Enclosures: Submitted documents

cc: Mr. Marc Garcia  
P.O. Box 26281  
Austin, Texas 78755  
(w/o enclosures)

Mr. Phillip Durst  
Wiseman, Durst, Tuddenham & Owen  
1004 West Avenue  
Austin, Texas 78701-2019  
(w/o enclosures)

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<sup>1</sup>For example, section 261.201(f) of the Family Code requires the Texas Department of Protective and Regulatory Services (the "department") to release child abuse and neglect investigation reports to certain parties. The statute states that the department must release such a report "if it has edited information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure." Fam. Code § 261.201(f).